IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

WEDNESDAY, THE 19TH DECEMBER 2007 / 28TH AGRAHAYANA 1929

MFA.No. 1546 of 2001(A)

WCC.60/1997 of W.C.C.,KOTTAYAM
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APPELLANT:

V.K.SAJEEVAN,
S/O.KUMARAN,
KARIMALICHIRAYIL,
PAKKIL, PALLAM P.O,
KOTTAYAM DIST.

BY ADV. SRI.PAULY MATHEW MURICKEN

RESPONDENTS:
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1. THE SECRETARY, KERALA STATE ELECTRICITY BOARD, VAIDYUTHI BHAVAN, PATTOM, THIRUVANANTHAPURAM.

2. THE EXECUTIVE ENGINEER, DIVISIONAL OFFICE, K.S.E.B., PONKUNNAM.

3. ASSISTANT EXECUTIVE ENGINEER, ELECTRICAL MAJOR SECTION, K.S.E.B., PONKUNNAM.

4. ASSISTANT ENGINEER, ELECTICAL OFFICE, K.S.E.B., VAZHOOR.

5. SUB ENGINEER, K.S.E.B. OFFICE, PALLIKKATHODU P.O., KOTTAYAM.

6. THE OVERSEER, K.S.E.B. OFFICE, PALLIKKATHODU P.O., KOTTAYAM.

7. SOMAN, EZHAKUNNEL (CONTRACTOR), VAKATHANAM P.O., KOTTAYAM.

BY ADV. SRI.V.K.SUNIL
SRI.JOSE J.MATHIEKEL (SC)
SRI.N.D.PREMACHANDRAN, SC, KSEB
SRI.C.K.KARUNAKARAN, SC FOR KSEB

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 19/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.PADMANABHAN NAIR, J.

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M.F.A.No.1546 of 2001

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Dated this the 19th day of December, 2007

J U D G M E N T

The applicant in W.C.C.No.60/1997 on the file of the Commissioner for Workmen's Compensation (Dy.Labour Commissioner), Kottayam, is the appellant. The appellant sustained an employment injury on 30/10/1995. He filed the petition claiming disablement benefit praying that his case may be treated as total disablement. The prayer was opposed by the respondent. It was contended that the appellant was engaged by a contractor and, hence, the contractor was liable to pay compensation. The seventh respondent/employer had filed a statement admitting the status of the appellant. The appellant produced a disability certificate showing that he had sustained 80% disability. The Dy.Labour Commissioner accepted the fact of 80% disability and awarded an amount of Rs.1,99,660/- as disablement benefit. According to the appellant, the compensation awarded is meagre and Dy.Labour Commissioner

ought to have treated his case as 100% disability. Hence, this appeal.

2. The only question arising for consideration in this appeal is whether the petitioner is entitled to get disablement benefit treating this as a permanent total disablement.

3. The petitioner was an electricity worker. On the date of accident, he was working on the top of an electric post. Without taking note of that fact, the line which was switched off was switched on permitting the electric current to pass through that line. The appellant came into contact with the live line. He was thrown away from the post and sustained severe injuries. His ribs were broken and, it affected his kidney and he was laid up and unable to move about. This part of evidence was not disputed by the respondents also. In **E.S.I Corporation vs. P.K.Raju [1995(1) KLT (S.N 41) Pg.29]**, a Division Bench of this Court took a view that the workmen is entitled to the full rate of disablement benefit of 100 per cent, as the disablement amounted to “permanent disablement” under Section 2(1)(l) of the Workmen's Compensation Act, 1923.

4. In view of the principal laid down in the decision, the appellant is entitled to get the benefit of total disablement in this case. In which case, the matter requires the quantum of compensation refixed taking this as:-

Rs.2,000 x $^{60}/_{100}$ x $^{100}/_{100}$ x 207.98 = Rs.2,49,576/-

and 12% interest.

5. In the result, the appeal is allowed in part. The compensation of the appellant is refixed at Rs.2,49,576/- with 12% interest. The respondent is directed to deposit the additional compensation also.

K.PADMANABHAN NAIR,
Judge

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K.PADMANABHAN NAIR, J.

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M.F.A.No.1546 of 2001

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J U D G M E N T

19th December, 2007